

Memorandum

To : Mr. Ramon J. Hirsig
Executive Director

Date : October 27, 2004

From : Margaret S. Shedd
Legislative Counsel

Kevin Beile for

Subject: Administrative Agenda Item

Your approval is requested to place the attached proposal to require the issuance of a seller's permit prior to issuance of an Alcoholic Beverage Control liquor license on the Administrative Agenda for the November 4, 2004 Board Meeting.

With your approval, the Board Proceedings Division will place this item on the Public Agenda Notice and provide a copy of the attachment to each Board Member.

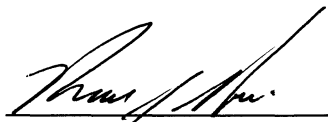
If you have any questions, please call Kevin Beile at 323-7169.

MSS:mcc

Attachment

cc: Ms. Randie Henry

Approved


Ramon J. Hirsig

Amend Section 23952 of the Business and Professions Code to require an applicant for a liquor license to possess a valid seller's permit as a prerequisite to obtaining a liquor license.

Source: October 19, 2004 Board Meeting

Under California's Sales and Use Tax Law, every person desiring to engage in or conduct business as a seller of tangible personal property within this state is required to apply to the Board of Equalization for a seller's permit for each place of business. In general, a seller's permit must be obtained if a person intends to sell or lease tangible personal property that would ordinarily be subject to sales tax if sold at retail. The requirement to obtain a seller's permit applies to individuals, partnerships, corporations, organizations, limited liability partnerships and limited liability companies. Both wholesalers and retailers are required to apply for a seller's permit.

Under the State Constitution, the Alcohol Beverage Control Board is granted the exclusive authority to administer the provisions of the Alcoholic Beverage Control Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated with the manufacture, importation and sale of alcoholic beverages in this state and the collection of license fees or occupation taxes for this purpose. Under this Act, a license is required for the privilege of selling all types of alcoholic beverages, namely, beer, wine and distilled spirits. However, this Act does not require that a seller's permit be obtained as a prerequisite to obtaining a license.

This proposal would, as part of the application process to obtain a license to sell alcohol beverages, require an applicant to include a copy of his or her valid seller's permit issued by the Board of Equalization (BOE). Such a requirement would assure that the applicant has contacted the BOE and has obtained a valid seller's permit with the accompanying information on the rights and responsibilities as a seller under the Sales and Use Tax Law.

Similar requirements are currently imposed upon new and used automobile dealers when applying for dealers' licenses with the Department of Motor Vehicles and firearms dealers when obtaining a license from the Department of Justice to sell, lease or transfer firearms.

Section 23952 of the Business and Professions Code is amended to read:

23952. The application shall also ~~contain~~ include the following:

(a) A a statement to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division

or any rule of the department applicable to the applicant or pertaining to the manufacture, sale, or distribution of alcoholic beverages, particularly any of the provisions of Sections 25500 to 25504, inclusive, or Sections 25611 to 25615, inclusive. If the applicant cannot make this statement the application shall contain a statement of the violation, if any, or reasons which will prevent the applicant from being able to comply with the requirements with respect to the statement.

(b) A copy of a valid seller's permit issued to the applicant by the State Board of Equalization.